

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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ADRIANE PADILLA, :
 :
 Plaintiff, :
 : 07 Civ. 4866 (DLI) (RER)
 - against - :
 :
 SANTIAGO MANLAPAZ a/k/a SONNY
 MANLAPAZ; LILIA REYES a/k/a LILY :
 REYES; BAGUIO CORPORATION :
 a/k/a BAGUIO VISAYAS :
 CORPORATION d/b/a BARRIO :
 FIESTA RESTAURANT a/k/a BARRIO :
 FIESTA a/k/a FIESTA BARRIO; :
 VISAYAS CORPORATION d/b/a :
 BARRIO FIESTA RESTAURANT a/k/a :
 BARRIO FIESTA a/k/a FIESTA :
 BARRIO; MELPITO CORPORATION :
 a/k/a MELPITO CORPORATION d/b/a :
 BARRIO FIESTA RESTAURANT a/k/a :
 BARRIO FIESTA a/k/a FIESTA :
 BARRIO, :
 :
 Defendants. :
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NOTICE OF MOTION FOR PARTIAL SUMMARY JUDGMENT

PLEASE TAKE NOTICE that upon the Plaintiff's Memorandum Of Law
In Support Of Plaintiff's Motion For Partial Summary Judgment, Plaintiff's Rule 56.1
Statement of Undisputed Material Facts, and the Affirmation Of Limor Robinson In
Opposition To Defendants' Motion To Dismiss And In Support Of Plaintiff's Motion For
Partial Summary Judgment, together with the exhibits attached thereto, as well as upon
all the prior pleadings and proceedings in the above-captioned case, Plaintiff will move in
the United States District Court for the Eastern District of New York, before the
Honorable Ramon E. Reyes, Jr., United States Magistrate Judge, United States District

Court, Eastern District of New York, 225 Cadman Plaza East, Room 263, Courtroom A – North Building, 2nd Floor, Brooklyn, New York 11201, for entry of an Order pursuant to Rule 56 of the Federal Rules of Civil Procedure granting partial summary judgment for Plaintiffs (i) as to Plaintiff's Third, Fourth, Fifth, Seventh and Ninth Claims for Relief set forth in Plaintiff's Complaint of November 21, 2007 (the "Claims"); (ii) as to Defendants' failure to maintain appropriate employment records pursuant to N.Y. Labor Law § 195(4), thereby shifting the burden of proof to Defendants on the question of potential damages; (iii) as to Defendants' failure to comply with the requirements for taking a "tip credit" to reduce minimum wage payments, pursuant to 12 NYCRR 137-1.4; (iv) on the issue of personal liability of Defendants Manlapaz and Reyes as to all of Plaintiff's Claims; (v) as to Defendants being "employers" within the meaning of the New York Labor Law; (vi) as to Defendants' liability for liquidated damages pursuant to New York Labor Law. § 198(1-a); (vii) as to the amount of damages due to Plaintiff under the New York Labor Law; (viii) as to Plaintiff's entitlement to prejudgment interest, at a statutory rate of 9 percent, for all damages sought under New York Labor Law, pursuant to N.Y. C.P.L.R. §§ 5001, 5004; and for such other relief the Court may deem just and proper.

PLEASE TAKE FURTHER NOTICE that answering papers, if any, shall
be served pursuant to the scheduling order established by the Court.

Dated: New York, New York
December 24, 2008

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Mark Cheffo', written over a horizontal line.

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